

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Daniel Altman on December 18, 2009.

The application has been amended as follows:

- a) Claim 10, line 5: "the" has been replaced with -- a --;
- b) Claim 10, line 12: "end" has been replaced with -- tip portion --; and
- c) Claim 10, line 13: "into" has been replaced with -- in --.

2. Claims 10, 11, 18, and 20 are allowable. Claim 13, previously withdrawn from consideration as a result of a restriction requirement, requires all the limitations of an allowable claim. Pursuant to the procedures set forth in MPEP § 821.04(a), the restriction requirement between inventions of a biosensor and a method of making (or using) the biosensor, as set forth in the Office action mailed on July 28, 2008, is hereby withdrawn and claim 13 is hereby rejoined and fully examined for

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patentability under 37 CFR 1.104. In view of the withdrawal of the restriction requirement, applicants are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Allowable Subject Matter

3. Claims 10, 11, 13, 18, and 20 are allowed.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEX NOGUEROLA whose telephone number is (571) 272-1343. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NAM NGUYEN can be reached on (571) 272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Alex Noguerola/
Primary Examiner, Art Unit 1795
December 19, 2009